

REMARKS

Claims 22 and 28 are canceled without prejudice, claim 31 is added, and therefore claims 21, 23, 24, 25, 26, 27, 29, 30 and 31 are pending.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants thank the Examiner for indicating that claims 25 and 29 contain allowable subject matter. While the objections may not be agreed with, to facilitate matters, claim 21 now includes the allowable features of claim 22, which has been canceled without prejudice, and many of the allowable features of claim 25, which is rewritten to exclude the features that have been included in claim 21. Claims 23 and 24 now depend from claim 21, since claim 22 has been canceled. Claim 27 now includes the allowable features of claim 28, which has been canceled without prejudice, and many of the allowable features of claim 29, which is rewritten to exclude the features that have been included in claim 27.

As to claim 30, it now includes the features like that of allowable claim 27, and is therefore allowable for essentially the same reasons as claim 27, as presented.

Accordingly, claims 21, 23, 24, 25, 26, 27, 29 and 30 are allowable, and it is therefore respectfully requested that the objections be withdrawn.

Claims 21 to 24, 26 to 28 and 30 were rejected under 35 U.S.C. § 103(a) as unpatentable over Boucourt, U.S. Patent Application No. 2002/0030608.

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Also, as clearly indicated by the Supreme Court in *KSR*, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine

the [prior art] elements” in the manner claimed. *See KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

As to the applied references, it is respectfully submitted that it does not disclose or suggest the features of claim 22 and 25 in which *the at least one invariant pattern is formed by at least one reference object applied in the scene for determining the at least one calibration parameter, and in which the at least one reference object is applied to at least one object of the scene that is relevant with respect to a monitoring function of the at least one image sensor*, as provided for in the context of claim 21, as presented, for essentially the reasons indicated by the Examiner in objecting to claim 25, the important aspects of which are included in claim 21, as presented.

As to the applied references, it is respectfully submitted that it does not disclose or suggest the features of claim 28 and 29 in which *the at least one invariant pattern is formed by at least one reference object applied in the scene for determining the at least one calibration parameter, and in which the at least one reference object is applied to at least one object of the scene that is relevant with respect to a monitoring function of the at least one image sensor*, as provided for in the context of claim 27, as presented, for essentially the reasons indicated by the Examiner in objecting to claim 29, the important aspects of which are included in claim 27, as presented.

As further regards all of the obviousness rejections, any Official Notice is respectfully traversed to the extent that it is maintained and it is requested that the Examiner provide specific evidence to establish those assertions and/or contentions that may be supported by the Official Notices under 37 C.F.R. § 1.104(d)(2) or otherwise. In particular, it is respectfully requested that the Examiner provide an affidavit and/or that the Examiner provide published information concerning these assertions. This is because the § 103 rejections are apparently being based on assertions that draw on facts within the personal knowledge of the Examiner, since no support was provided for these otherwise conclusory and unsupported assertions. (See also MPEP § 2144.03).

In short, while the rejections may not be agreed with, to facilitate matters, *claim 21 now includes the allowable features of claim 22*, which has been canceled without prejudice, *and the important and allowable aspects of the features of claim 25*, which is rewritten to exclude the features that have been included in claim 21. Claims 23 and 24 now depend from claim 21, since claim 22 has been canceled. *Claim 27 now includes the allowable features of claim 28*, which has been canceled without prejudice, *and the important and allowable aspects of the features of claim 29*, which is rewritten to exclude the features that have been included in claim 27.

As to claim 30, it now includes the features like that of allowable claims 21 and 27, and is therefore allowable for essentially the same reasons as claims 21 and 27, as presented.

Accordingly, claims 21, 23, 24, 25, 26, 27, 29 and 30 are allowable, and it is therefore respectfully requested that the rejections be withdrawn.

New claim 31 does not add any new matter and is supported by the present application. In particular, claim 31 depends from claim 30, and is therefore allowable for the same reasons as claim 30, as presented. Claim 31 includes features like those of claims 25 and 29, as presented.

Accordingly, claims 23, 24, 25, 26, 27, 29, 30 and 31.

CONCLUSION

In view of the foregoing, Applicants respectfully submit that all pending claims are allowable. It is therefore respectfully requested that the rejections and objections be withdrawn. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

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Respectfully submitted,

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